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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,394

07/07/2004

Steven S. Chang

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10/20/2006

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EXAMINER

VERAA, CHRISTOPHER

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/710,394	<b>Applicant(s)</b> CHANG ET AL.	
	<b>Examiner</b> Christopher E. Veraa	<b>Art Unit</b> 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 22-26 is/are pending in the application.  
4a) Of the above claim(s) 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1 page</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: In paragraph 20, line 4, "fig. 164, 66 and 68" appears to be a typographical error as there is no figure 164. In paragraph 26, line 15, "an personalized greeting" appears to be a typographical error.

Appropriate correction is required.

### ***Claim Objections***

2. Claims 6 and 16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claim is directed towards the content of an indicia. The content of printed matter is not patentable material as it does not further limit the physical structure of a manufactured article.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Fox (US-4130197). As to claim 14, Fox teaches (see figure 2) an upstanding card with two panels, with one of the panels having an elongated passageway for receiving an article through a mouth adjacent to an upper end of the panel. As to claim 16, each panel has a region for receiving an inscription (12). As to claim 17, the card is constructed from a unitary blank (see figure 1). As to claim 18, the card is constructed of paperboard (column 3, lines 66-68).

5. Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Mendell (US-1794311). As to claim 22, Mendell teaches a display assembly for candy articles on stems which includes a carrier including an elongated panel with a pocket for receiving each stem, in which the pocket is substantially deep for receiving the stem. As to claim 23, Mendell provides a pocket that is at least two thirds the length of a stem, as shown in figure 2 and 3.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1-13 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox (US-4130197) in view of Johnson (US-5595008) and the 2002 TWINKLE CANDY catalog provided by the applicant in the Information Disclosure Statement filed 7 July 2004. As to claim 1, Fox teaches a display card with two angularly oriented panels, each panel with a top and bottom, and an elongated passageway formed on one panel. Fox lacks an edible article on a stem inserted into the passageway. Johnson teaches a greeting card that includes a sleeve for inserting a flower. It would be obvious to one of ordinary skill in the art at the time of the invention to include a flower or group of flowers in the card taught by Fox in order to provide a sentimental gift as taught by Johnson. The TWINKLE CANDY catalog shows edible articles on stems that are designed to look like flower bouquets. It would be obvious to one of ordinary skill in the art at the time of the invention to substitute one of these bouquets for the flower of the combination of Fox and Johnson described above since the TWINKLE CANDY bouquets are designed to look like flower bouquets. As to claim 2, the card of Fox includes an elongated passageway with a mouth adjacent to the top end of the panel on which the passageway is formed. It would also be obvious to insert the stem article through the mouth of the passageway. As to claim 3, the shape of the card appears to be ornamental in purpose and therefore does not constitute a patentable improvement. Matters relating to ornamentation only, and having no mechanical function, cannot be relied on where claims are not directed to design but are structural claims (in re SEID). As to claim 4, the card of Fox has a region to receive an inscription. As to claim 5, the cards of both Fox and Johnson consisted of a pair of

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panels that present front back and inner faces thereof. As to claim 6, the card of Fox is adapted to carry any indicia desired by a user. Further, patentable novelty cannot be principally predicated on mere printed matter and arrangements thereof, but must reside basically in physical structure (in re Montgomery 102 USPQ 248). As to claim 7, the cards of both Fox and Johnson are adapted to receive inscriptions on their inner faces. As to claims 8, the bouquets in the TWINKLE CANDY catalog are made of candy. As to claim 9, the bouquets in the TWINKLE CANDY catalog consist of a plurality of comestible articles on stems to simulate bouquets. As to claim 10, it would be obvious to lengthen or shorten the stems in the bouquets in the TWINKLE CANDY catalog in order to be properly supported in the elongated passageway of Fox, or for mere aesthetics. As to claim 11, the stems of the bouquets in the TWINKLE CANDY catalog are made of tubular synthetic resin material. As to claim 12, the card of Fox is formed from a unitary blank material (see figure 1). As to claim 13, Fox teaches constructing his card from paperboard (column 3, lines 66-68). As to claim 22, the suggested combination of Fox, Johnson and the bouquets in the TWINKLE CANDY catalog consists of candy articles with stems, a carrier with an elongated panel with a pocket for receiving the stems. As to the length of the stems and the pocket, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the length of either the pocket or the stems so that the combination would be complementally dimensioned. As to claim 23, since the reason for a specific proportion is to render the pocket and stems complementally dimensioned, a proportion of two-thirds would be found through routine experimentation and would therefore be obvious to one of ordinary skill in the

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art. As to claim 24, the panels in Fox are interconnected along a fold line. The panels also include front, back and inner faces. The front face in Fox is adapted to include printed greeting indicia. Claim 25 is rejected for the same reason as claim 6 above. As to claim 26, the cards of both Fox and Johnson are adapted to receive inscriptions on their inner faces.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fox (US-4130197). The shape of the card appears to be ornamental in purpose and therefore does not constitute a patentable improvement. Matters relating to ornamentation only, and having no mechanical function, cannot be relied on where claims are not directed to design but are structural claims (in re SEID). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the shape to be any ornamental design.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hazelton and Rigg (US-611363) teaches a bouquet holder with two opposed panels and a display for a picture.

Kieves (US-5819448) teaches a greeting card that holds a balloon to the front panel.

Dawson (US-5771614) teaches a greeting card that holds a floral arrangement when unfolded.

Carroll (US-5366192) teaches a card display that can hold an article with a stem.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher E. Veraa whose telephone number is 571-272-2329. The examiner can normally be reached on Monday through Friday, 7:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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